

February 8, 1995

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William F. Caton  
Acting Secretary  
Federal Communications Commission  
Mail Stop 1170  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

Re: *CC Docket No. 94-129, Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*

On behalf of Pacific Bell and Nevada Bell, please find enclosed an original and six copies of their "Reply Comments" in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me at 202-383-6430 should you have any questions or require additional information concerning this matter.

Sincerely,



Denice Harris

Enclosures

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION

In the Matter of

Policies and Rules Concerning Unauthorized  
Changes of Consumers' Long Distance  
Carriers

CC Docket No. 94-129

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**REPLY COMMENTS OF PACIFIC BELL AND NEVADA BELL**

I. **INTRODUCTION**

Pacific Bell and Nevada Bell support the need to standardize the format and content of a letter of agency ("LOA"), which is used to authorize the change from one long distance carrier to another. Those in opposition to the proposed rules in CC Docket No. 94-129 argue that additional regulation will limit marketing efforts, impede competition and add administrative inefficiencies.<sup>1</sup>

Philosophically, we agree that regulatory limitations reduce marketing opportunities. However, based on the level and nature of customer complaints, it seems that some carriers have taken advantage of the "small print." We strongly support competition and customer choice but the information must be clear and unambiguous so that customers can make an informed choice.

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<sup>1</sup> Communications Telesystems International, p. 2; Lexicom, Inc., p. 3; One Call Communications, p. 3.

We agree that inducements are an essential marketing tool. Some customers are very savvy about using inducements to their advantage.

Unfortunately, we don't hear from customers who are happy with the way things work -- we hear from those who are very unhappy. We hear from those that have been repeatedly "slammed" by different carriers and are confused, frustrated and feel violated. They ask us to explain how and why this happened. They ask how to prevent it from happening. They ask for our help, and, unfortunately, as the local exchange carrier ("LEC") we are caught in the middle.

Therefore, we urge the Commission to adopt the proposed rules as the necessary first step in striking the right balance between consumer protection and maintaining open and fair competition among the carriers. The second step is to adopt penalties or sanctions to firmly deter non-compliance.

II. THE LOA MUST BE A SEPARATE DOCUMENT AND MUST BE UNAMBIGUOUS.

The interexchange carriers ("IXCs") need to ensure, not presume, that the end user customer knows that an LOA is an contractual agreement. We support proposed 64.1150(b), that the LOA should be a separate document and clearly labeled. The IXC needs to ensure that the person signing an LOA is an adult and the person responsible for the telephone service. Too often we learn that an unauthorized person, including teenagers, has signed a LOA.

The IXC should be required to send a confirmation letter to the person signing the LOA which defines the terms and conditions of the service to be provided and to identify any applicable charges. This should be sent prior to the

establishment of service. The signed LOA must be retained on file with the IXC for use in dispute resolutions. Pacific agrees with the State of New York Department of Public Service<sup>2</sup> that the IXCs should be required to submit a sample copy of their LOA to the FCC for review. A sample copy of each IXCs' LOA should be maintained on file at the FCC.

We agree with the Commission that marketing inducements are beneficial to customers and to competition in interexchange services and should not be banned entirely. The proposed rule recognizes that the most appropriate form of consumer protection is to separate the inducement from the LOA. As long as the inducements are separate from the LOA we agree with Comptel that they can be mailed in the same envelope.<sup>3</sup> Likewise, we agree with Sprint that a Primary Interexchange Carrier charge credit (usually a check) should be allowed in the same envelope.

We are concerned that LOAs in English present a problem to customers with limited understanding of English. IXCs should be encouraged to provide bilingual LOAs in areas where there is a high immigrant population.

Some IXCs or primarily resellers argued that they are prevented from receiving certain customer information (because they are not the primary carrier) and that if they had access to customer billing name and telephone number they

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<sup>2</sup> State of New York Department of Public Service, p. 3.

<sup>3</sup> Comptel, n.9.

would do a better job at PIC verifications and the disputes would decrease.<sup>4</sup> Due to privacy concerns and customer proprietary network restriction ("CPNI") restrictions this proceeding should not allow for the release of information that current laws and regulations prohibits them from receiving. Moreover, if the LOA is designed according to the rules set forth in 64.1150(a) and (d), IXC's should receive all the information they need to process an authorized PIC change.

III. A RATE ADJUSTMENT SHOULD APPLY TO CALLS BILLED BY AN IXC IF IXC WAS NOT THE AUTHORIZED CARRIER.

We agree that a customer is responsible for the charges they incur even if they were billed by an unauthorized carrier. However, they should be allowed a "reasonable rate" adjustment for any calls which were billed during the period of the unauthorized PIC change. The unauthorized carrier must adjust the disputed amount to the equivalent amount of the same call had the call been billed by the authorized carrier.

If the IXC handles their own inquiries but they bill through the LEC; the IXC should satisfy that customer by adjusting the entire amount of the call, if necessary. If they do not, and the LEC adjusts to satisfy after the IXC granted only a partial adjustment, the LEC will recourse the difference to the IXC. In the case of unauthorized PIC changes neither the customer, LEC, or the previous IXC should be financially disadvantaged while the unauthorized carrier is financially advantaged.

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<sup>4</sup> Homeowners Long Distance, Inc., p. 10.

IV. SANCTIONS AND PENALTIES MUST BE A PART OF THE COMMISSION'S RULES WITH RESPECT TO UNAUTHORIZED PIC CHANGES.

The LEC should be allowed to increase or establish a PIC dispute penalty that is not cost based for every unauthorized change.<sup>5</sup> In addition, as we recommended in our comments, the Commission should establish performance thresholds for enforcement purposes. For example, if more than 2% of a carrier's carrier-initiated charges are subject to dispute, the FCC should impose a monetary penalty. Moreover, the LEC should be permitted to disconnect access service in the event the percentage of disputes exceeded 15% for two out of three consecutive months. Billing performance thresholds based on the number of customer complaints or the percentage of adjustments were approved by the California Public Utilities Commission in our billing tariff. Pacific Bell and Nevada Bell ask the Commission to establish similar performance thresholds. Each LEC should submit a monthly monitoring report to the Commission for evaluation of each carrier's performance and the Commission should assess penalties or sanctions for those exceeding the acceptable levels.

V. CONCLUSION.

Consumers and the industry as a whole will benefit from the Commission's proposed rule. We respectfully request that the Commission include

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<sup>5</sup> This type of penalty in the amount of \$100 was approved by the State of New York Department of Public Service, Frontier Comments, p. 3; Nynex, p. 4.

a section in its rules to impose penalties and sanctions to ensure that IXCs have every incentive to comply.

Respectfully submitted,

PACIFIC BELL  
NEVADA BELL

  
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Their Attorneys

Date: February 8, 1995

CERTIFICATE OF SERVICE

I, S. L. MCGREEVY, hereby certify that copies of the foregoing  
REPLY COMMENTS OF PACIFIC BELL AND NEVADA BELL were  
served by hand or by United States first-class mail, postage prepaid, upon the  
parties listed on the attached service list on this 8th day of February 1995.

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